

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R.A.C., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ERIC COLEMAN,

Respondent-Appellant,

and

JULIE ANN THOMPSON,

Respondent.

In the Matter of R.A.C., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JULIE ANN THOMPSON,

Respondent-Appellant,

and

ERIC COLEMAN,

Respondent.

UNPUBLISHED

January 24, 2003

No. 242483

Clinton Circuit Court

Juvenile Division

LC No. 01-014586-NA

No. 243504

Clinton Circuit Court

Juvenile Division

LC No. 01-014586-NA

Before: O’Connell, P.J., and Griffin and Markey, JJ.

PER CURIAM.

In Docket No. 242483, respondent Eric Coleman appeals as of right from the trial court’s order terminating his parental rights to the minor child under MCL 712A.19b(3)(b), (c)(i), (g) and (j). In Docket No. 243504, respondent Julie Ann Thompson appeals as of right challenging the trial court’s order terminating her parental rights by consent and an order denying her sister’s guardianship petition. We affirm.

We review the trial court’s findings of fact for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once the court finds that a statutory ground for termination has been established, it is required to terminate parental rights unless it finds that termination is clearly not in the child’s best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 350-351.

I. Docket No. 242483 – Father’s Appeal

We agree with respondent father that the court erred when it found that his assault on a friend’s child satisfied the requirements of MCL 712A.19b(3)(b). That subsection plainly applies only where the child named in the petition, or a sibling of that child, is the child who suffered injury or abuse. However, the court did not clearly err in finding that the remaining statutory grounds for termination, §§ 19b(3)(c)(i),¹ (g) and (j), were each proven by clear and convincing evidence. Respondent has engaged in excessive criminality and drug use. Despite her experience as a part-time nurse in a detoxification unit, respondent’s current wife has been unable to prevent respondent from engaging in this dangerous conduct or to detect the presence of drugs in her own basement. Respondent’s assault on a four-year-old boy confirms the psychologist’s concern that respondent’s addiction makes him assaultive. Further, the prognosis for rectifying respondent’s other psychological conditions was poor, with treatment expected to take a minimum of four or five years *if respondent cooperates*. Even then, the evidence demonstrated that respondent’s cooperation could not be assured given his history of manipulative words and conduct. The support of family and friends had also failed to keep respondent lawful and sober, and respondent failed to show that he was yet capable of maintaining lengthy employment.

The child, who was four years old at the time of the termination hearing, had been placed in numerous homes as a result of the drug usage and legal problems of both parents. Respondent’s argument that he was not given a fair chance to help make placement decisions is disingenuous; it is his frequent incarceration that prevented him from helping arrange suitable care and custody. During the short time in which respondent did have physical custody of the child, he tested positive for cocaine and was sent back to prison. The court did not clearly err in finding that termination was warranted under §§ 19b(3)(c)(i), (g) and (j).

¹ Respondent erroneously argues that the adjudication was based on a narrow ground but in fact it was based in large part on respondent’s criminality and drug use as well as the assault on the friend’s child.

Additionally, we find no clear error in the trial court's determination that the situation was unsuitable for the child's psychological and emotional well-being and that the child needed stability. Because the evidence failed to show that termination was clearly not in the child's best interests, the court did not err in terminating respondent's parental rights to the child. MCL 712A.19b(5); *In re Trejo, supra*.

II. Docket No. 243504 – Mother's Appeal

Respondent mother argues that she only agreed to release her parental rights because she was promised that her sister and brother-in-law would continue to have custody of the child. The record does not support respondent's argument. On the contrary, as petitioner argues, respondent mother acknowledged on the record several times that she understood there was no guarantee that placement would continue with the relatives. She responded affirmatively when the court asked if she understood that, while the agency considers family members for placement, "there is no guarantee," and also when her attorney asked, "And you know that there's no guarantee that your sister will be allowed to adopt [the child], correct?" The court properly ascertained that respondent's decision was freely and knowingly made. *In re Blankenship*, 165 Mich App 706, 712; 418 NW2d 919 (1988). Furthermore, respondent mother never sought to withdraw her release or move for rehearing in the trial court, and she did not request an evidentiary hearing into any alleged promises. Thus, there is no factual support for her argument that promises were made or that she relied on them.

Respondent also argues that the court erred by denying her sister's guardianship petition. The transcript of the guardianship hearing has not been provided to this Court, so this issue is not properly before us. *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995). In addition, respondent lacks standing to assert her sister's interests and because respondent consented to termination and released her parental rights to the child, she lacks standing to assert the child's interests as well. Cf. *In re Trejo, supra* at 356 (when grounds for termination are shown, parent's interest in companionship, care, and custody of the child yields to state's interest in protection of the child); *Bradley v Fulgham*, 200 Mich App 156, 159; 503 NW2d 714 (1993) (parent whose parental rights are terminated has no further rights or responsibilities toward the child). Accordingly, this issue does not warrant appellate relief.

Affirmed.

/s/ Peter D. O'Connell
/s/ Richard Allen Griffin
/s/ Jane E. Markey